IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 383 OF 2006
IN
WRIT PETITION NO. 5907 OF 1997

Mrs. Deepali Anant Deshmukh.] .. Petitioner

Versus

1.Shri Yamunabai Suryakant Pathak & anr].. Respondents

Mr. V.S. Gokhale for the petitioner.

Mr. A.S. Pratinidhi i/b S.N. Chandrachood for respondent No.1.

CORAM: R.M. LODHA &
A.S. BAGGA, JJ.

DATED: 16TH JUNE, 2006

P.C. :

. Heard.

2. The respondent No.1 Smt. Yamumabai Suryakant Pathak is said to have died on 27th August, 2004 at Pune. By this application filed on 18th February, 2006 the petitioner prays for substitution of the original respondent No.1. Since the application has not been made within 90 days of the death of respondent No.1, the applicant has also prayed for condonation of delay.

3. It is settled legal position that in the Petitions under Article 226 Order XXII of the Civil Procedure Code does not apply. In this view of the matter, merely because the application for substitution has not been made within 90 days, the Writ Petition shall not abate. We do not find any lack of diligence on the part of the petitioner in making the application.

4. In the circumstances, we grant the application and allow substitution of the deceased respondent No.1 by her legal heirs as set out in the application.

5. Necessary amendment be carried out in the Cause Title of the Writ Petition within 2 weeks from today.

6. Civil Application stands disposed of.

Sd/-
[R.M. LODHA, J.]

Sd/-
[A.S. BAGGA, J.]